

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANDREW J. SINGH,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

No. C 14-03624 BLF (PR)  
**ORDER OF DISMISSAL**

On August 11, 2014, Petitioner in *pro se* filed a “motion under 28 U.S.C. § 2255 to vacate [and] set aside or correct sentence a by a person in federal custody.”<sup>1</sup> (Docket No. 1.) Petitioner also filed a motion for leave to proceed *in forma pauperis* (“IFP”), which was insufficient because Petitioner did not use the correct form and failed to attach supporting documentation. (Docket No. 2.)

In the interest of justice, the Court granted Petitioner an extension of time to file a proper petition and complete IFP application to proceed with this action.

<sup>1</sup>Although Petitioner stated that his motion was under § 2255, it is obvious from the information provided in the motion and a subsequent filing, (*see* Docket No. 9), that Petitioner is challenging his state conviction out of Alameda County. Petitioner is currently in custody at Yuba County Jail in Marysville, California. Accordingly, it appears that petition for a writ of habeas corpus under 28 U.S.C. § 2254 is the appropriate action.

(Docket No. 10.) Petitioner was directed to use the court's form petition and provide all the information required in the form. Petitioner was also directed to use the court's form IFP application and provide the necessary supporting documents. (*Id.*) When Petitioner filed another deficient IFP application, (*see* Docket No. 11), and a pleading that was insufficient to construe as a petition, (*see* Docket No. 12), the Court granted Petitioner one final extension of time to file a proper petition using the court's form petition and a Certificate of Funds in Prisoner's Account to complete his IFP application, to be filed no later than twenty-eight days from the date the order was filed on November 21, 2014. (Docket No. 12.) Petitioner was advised that failure to file a proper petition in the time provided would result in the dismissal of this action without further notice to Petitioner. (*Id.*)

On December 10, 2014, Petitioner filed a "Declaration of Counsel in Reply to Docket #12 and Augmentation, Correction to Court Record," (Docket No. 13), and a "Declaration of Counsel (Pro Se) in Motion for all Appeal Record to Forward," (Docket No. 14). In the first document, Petitioner asserts that the pleading is in response to the IFP application requirement in the Court's previous order but provides no explanation for his failure to file a complete application to date. The latter document appears to be a request to "all appellate courts in entitled case" to forward documents to the district court. Neither of these documents is an appropriate response to the Court's directive that Petitioner file a proper petition and complete IFP application in the time provided. Petitioner was advised that no further extensions would be granted. (*See* Docket No. 12.) Accordingly, this case is **DISMISSED** without prejudice for failure to file a proper petition and for failure to pay the filing fee

The Clerk shall terminate any pending motions and close the file.

**IT IS SO ORDERED.**

DATED: 1-13-2015

  
BETH LABSON FREEMAN  
United States District Judge